IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 53 OF 2007
WITH
CIVIL APPLICATION NO. 96 OF 2007

Smt. Safiya Abdul Rehman Pore ..Appellant

Vs.

The Managing Director,
City and Industrial Development
Corporation and anr. ..Respondents

Ms. Gauri Godse for appellant.
Mr. G.S. Hegde i/by M/s.G.S. Hegde and Associates for respondents.

CORAM: B.H. MARLAPALLE, J.

Date : April 30, 2007.

P.C.:

1. Heard the learned counsel for the respective parties. The appellant-plaintiff had challenged the notice dated 7/10/1994 (Exh.90) issued by the defendants under Section 53(1) of the Maharashtra Regional Town Planning Act, 1966 in RCS No. 121 of 1994 and the said suit was decreed by the learned Joint Civil Judge, J.D., Panvel vide his judgment and order dated 31/7/2002. The said decree was challenged by the defendants in Civil Appeal No. 189 of 2002 and

the appeal has been allowed by the learned Ad Hoc District Judge (I), Raigad at Alibag as per his judgment and order dated 30/11/2006. Though the power of the defendants to issue notice under Section 53(1) of the MRTP Act, 1966 for demolition of illegal construction could not be disputed, the plaintiff contended that the impugned notice was not in respect of the construction she had made on land Survey No. 109/5, 6, 3B, 7D and 7E (part).

2. The learned counsel for the respondents states on instructions that the impugned notice has been decided to be withdrawn reserving their right to issue fresh notice in respect of the plot of land on which the construction made by the plaintiff is standing. It was further submitted that on such withdrawal of the impugned notice nothing further survives in this appeal so as to challenge the decree passed by the Lower Appellate Court. It has been further submitted that the impugned notice will be withdrawn within one week from today.

3. Undertaking of the learned counsel for the

respondents is hereby noted and the said notice stands withdrawn. Consequently, nothing further would remain in this second appeal and the same is hereby disposed as infructuous. It is clarified that the disposal of the second appeal would not come in the way of the plaintiff to challenge the fresh notice, if any, if so desired.

4. Civil Application NO. 96 of 2007 does not survive and the same shall stand disposed as such.

(B.H. Marlapalle,J.)